

(Rev. 12/6/12)

SECTION P

Civil Action No. 2:13CV0390 SEC P

**INSTRUCTIONS FOR FILING AN
APPLICATION TO PROCEED IN FORMA PAUPERIS PURSUANT TO 28 U.S.C. § 1915
(FOR BOTH PRISONERS AND ICE DETAINEES)**

1. **WHO SHOULD USE THIS FORM.** Prisoners and ICE detainees who are unable to pay the filing fee and service costs to file a suit with this court should use this *in forma pauperis* ("IFP") application. Please note that prisoners and ICE detainees follow different rules when an IFP application is granted and the following requirements should be followed:
 - a. **For Prisoners (Not ICE Detainees):** In the past, some prisoners granted IFP status were ordered to pay only part of the \$350.00 filing fee and were never obligated to pay any more. However, the Prison Litigation Reform Act ("PLRA") has now changed this. The PLRA amended 28 U.S.C. §1915 to obligate a prisoner granted IFP status to pay the entire filing fee of \$350.00 in a civil action and \$5.00 in a habeas corpus petition. The granting of *in forma pauperis* status allows a prisoner to proceed in a civil case without having to prepay the entire filing fee. A prisoner granted IFP status is able to pay the filing fee of \$350.00 in small increments over time and is obligated to pay the full amount no matter how long it takes and regardless of whether the action is dismissed or if the prisoner is released from confinement.
 - b. **For ICE Detainees Only:** Just like prisoners, ICE detainees who file suit with this court may also file for IFP status. However, the Prison Litigation Reform Act does not apply to ICE detainees. Therefore, ICE detainees who are granted IFP status do not pay any of the \$350.00 filing fee and are only required to pay \$5.00 for a habeas corpus action. An ICE detainee who is denied IFP status in a civil action must pay the entire filing fee of \$350.00.
2. **FILL OUT THE FORM.** To file an application to proceed *in forma pauperis*, the applicant must submit the following forms:
 - a. An affidavit that includes a statement of all assets the applicant possesses; and
 - b. A certified copy of the applicant's account statement for the last six months, obtained from the appropriate official at the prison or correctional facility; and
 - c. A signed form authorizing the institution of incarceration to forward from the applicant's account to the Clerk of Court any filing fee or initial partial filing fee assessed by the Court and if a prisoner and not an ICE detainee to forward monthly payments thereafter of 20 percent of the prisoner's preceding month's income credited to the prison account until the full amount of the filing fee is paid.

All information must be clearly and concisely written in the appropriate space on the form. If additional space is needed to provide information about the case, attach additional blank pages. **DO NOT WRITE ON THE BACK OF ANY OF THE PAGES;** any writing on the back of any page might not be considered by the court.
3. **TYPE OR PRINT THE COMPLAINT.** The *in forma pauperis* application must be typed or legibly handwritten in pen (not pencil) and only on one side of the page.

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4. **PAPER SIZE**. The *in forma pauperis* application must be on 8½" x 11" letter size paper.
5. **SIGN THE FORM**. The applicant applying for pauper status must sign and declare under penalty of perjury that the information provided is correct. In addition, the applicant must sign authorizing the institution where the applicant is in custody to forward certified copies of the applicant's account and any payments to the Clerk of Court. Applications must contain an original signature and not a copy.
6. **ASSESSMENT OF FILING FEES FOR PRISONERS (NOT ICE DETAINEES) IN A CIVIL RIGHTS ACTION**. If the court determines that a prisoner is unable to pay the full filing fee, the court will allow the applicant to proceed *in forma pauperis*. The court will then assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of the average monthly deposits to the applicant's account or 20 percent of the average monthly balance in the applicant's account for the 6 month period immediately preceding his or her application to proceed *in forma pauperis*. See 28 U.S.C. §1915(b)(1). Thereafter, a prisoner is required to make monthly payments of 20 percent of the preceding month's income which is credited to the prison account to the Clerk of Court until the fees are paid in full. Such payments shall be forwarded to the Clerk of Court by the prison official each time the amount in the prisoner's account exceeds \$10.00. See 28 U.S.C. §1915(b)(2). If an applicant has no assets and no means to pay the initial partial filing fee, the applicant will not be prohibited from bringing an *in forma pauperis* action. See 28 U.S.C. §1915(b)(4). However, prisoners who do not pay an initial partial filing fee will still be required to make monthly payments as described above from the money the prisoner collects at a later date. **Note: Once a filing fee is assessed for a prisoner, the full filing fee must be eventually paid regardless of the outcome of the case!**
7. **THREE OR MORE SUITS**. An applicant who has filed three or more civil actions and/or appeals while incarcerated or detained, and the actions have been dismissed on grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted, may not proceed *in forma pauperis* in bringing a new civil action or in appealing a judgment absent a threat of imminent, serious physical injury. See 28 U.S.C. § 1915(g).
8. **WHERE TO MAIL**. Inmates, who reside in or who are transferred into Louisiana Department of Corrections facilities participating in the Electronic Filing Pilot Program, shall provide the completed IFP form to be scanned and emailed to the court. Inmates at all other facilities shall mail the original to the **Clerk of the United States District Court for the Western District of Louisiana, 300 Fannin Street, Suite 1167, Shreveport, LA 71101-3083.**
9. **DEFICIENT APPLICATIONS**. A Memorandum Order will issue if your *in forma pauperis* application does not conform to these instructions.

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

MATTHEW KEITH MCBRIDE

Civil Action No. 2:13CV0390

SEC. P

Plaintiff

Prisoner # 12073357

VS.

Judge MINALDI

BEAUREGARD PARISH

Magistrate Judge KAY

Defendant

APPLICATION TO PROCEED IN FORMA PAUPERIS
PURSUANT TO 28 U.S.C. § 1915

I, _____, prisoner/ICE identification number _____,
(Full Name)

declare that I am the: Plaintiff Petitioner

* If you are a plaintiff in a civil rights action, are you serving a criminal sentence? Yes No

* If you are **not** serving a criminal sentence, are you being held pursuant to a detainer placed upon you by a government agency such as the U.S. Immigration and Customs Enforcement (ICE)? Yes No

Movant (filing 28 U.S.C. § 2255 motion)

Other _____

in this case. In support of my request to proceed without prepayment of the full filing fee or costs under 28 U.S.C. § 1915, I declare that I am unable to pay the full filing fee or costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

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1. Are you incarcerated? Yes No

If "Yes," state place of incarceration: _____

If "No," this is the incorrect form. You should request the Application to Proceed *In Forma Pauperis* for non-prisoners.

2. Do you have a work, program, status assignment, or other circumstances which causes you to be paid by the prison, jail, or other custodial institution? Yes No

3. In the past 12 months have you received money from the following sources? If so, state the total amount received.

Amount

- a. Business, profession, or other self-employment Yes No \$ _____
- b. Rent payments, interest, or dividends Yes No \$ _____
- c. Pensions, annuities, or life insurance payments Yes No \$ _____
- d. Disability or Worker's Compensation Payments Yes No \$ _____
- e. Gifts or Inheritances Yes No \$ _____
- f. Any other sources Yes No \$ _____

If the answer to any of the above is "Yes," describe each source of money and state the amount received **and** the amount that you expect to continue to receive.

4. Do you have **any** cash or checking or savings accounts outside the prison?

Yes No Amount \$ _____

5. Do you have a secondary savings account, such as a certificate of deposit or a savings bond?

Yes No Amount \$ _____

6. Do you own any assets including real estate, stocks, bonds, securities, other financial instruments, automobiles, or other valuable property?

Yes No

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If "Yes," describe each asset and state its value:

	<u>Value</u>
Automobiles	\$ _____
Make/Model/Year	\$ _____
Stocks	\$ _____
Bonds	\$ _____
Notes	\$ _____
Real Estate	\$ _____
	Mortgage Amount
Other	\$ _____

7. Have you on any prior occasion, while incarcerated or detained in any prison, jail, or other facility, brought an action in federal court that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief could be granted?

Yes No

If "Yes," list the dismissals:

<u>Date Dismissed</u>	<u>Case Name</u>	<u>Case Number</u>	<u>Court</u>
_____	vs. _____	_____	_____
_____	vs. _____	_____	_____
_____	vs. _____	_____	_____

I declare under penalty of perjury that I have submitted a complete statement of all of the assets that I possess and that all of the information set out above is true and correct.

Executed on _____

(Date)	(Signature of Applicant)
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AUTHORIZATION

I, _____ prisoner/ICE detainee identification number _____, request and authorize the institution holding me in custody, to send to the Clerk of Court for the United States District Court, Western District of Louisiana, a certified copy of the statement for the last six months of my account at the institution where I am incarcerated and/or detained. If required by this court, I further authorize the institution holding me to forward from my account to the Clerk of Court any initial partial filing fee assessed by the Court in the amount of 20 percent of the greater of the average monthly deposits to my prison account or the average monthly balance in my prison account for the six-month period immediately preceding the filing of this complaint or petition. Thereafter, if I am a prisoner and not an ICE detainee, I authorize the institution of incarceration to forward monthly payments of 20 percent of my preceding month's income credited to my prison account to the Clerk of Court each time my balance exceeds \$10.00 until I have paid the filing fee in full.

This authorization is furnished in connection with the commencement of a civil action, and I understand that the total amount of filing fees for which I am obligated is \$350.00. I also understand if I am a prisoner and not an ICE detainee that these fees will be debited from my account regardless of the outcome of my civil action. This authorization shall apply to any other institution into whose custody I may be transferred.

I further acknowledge that I have not directly or indirectly paid or caused to be paid to any inmate, agent of an inmate, or family member of an inmate a sum of money, favors or anything else for assistance in the preparation of this document or any other document in connection with this action.

(Date)

(Signature of Prisoner)

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CERTIFICATE

I request that an authorized officer of the institution in which I am confined, or other designated entity, complete the below financial certificate. I understand that:

- (1) if I commence a petition for Writ of Habeas Corpus in federal court pursuant to 28 U.S.C. §2254 or 28 U.S.C. §2241, the filing fee is \$5.00, and such fee will have to be paid by me.
- (2) if I file a civil action with this court (such as an action pursuant to 42 U.S.C. §1983) the filing fee is \$350.00, and, that:
 - (a) if my current account balance at the institution is \$350.00 or more, I will not qualify for *in forma pauperis* status and I must pay the full filing fee of \$350.00 before I will be allowed to proceed with the action;
 - (b) if my current account balance at the institution is \$350.00 or less and I am a prisoner and not an ICE detainee, that before the action will be served on the defendants, I will be required to pay 20 percent of my average monthly balance, or the average monthly deposits to my account, whichever is greater. Thereafter I must pay installments of 20 percent of the preceding month's deposits to my account in months that my account balance exceeds \$10.00, and I hereby authorize the institution where I am confined to make such deductions. I must continue to make installment payments until the \$350.00 filing fee is fully paid, without regard to whether my action is closed or my release from confinement;
 - (c) if my current account balance at the institution is \$350.00 or less and I am an ICE detainee granted IFP status, I will not pay any of the \$350.00 filing fee in a civil matter and will only pay \$5.00 in a habeas matter. If I am an ICE detainee and I am denied IFP status, I must pay the full \$350.00 filing fee.
- (3) I further state that I have not directly or indirectly paid or caused to be paid to any inmate, agent of an inmate, or family member of any inmate a sum of money, favors or anything else for assistance in the preparation of this document or any other document in connection with this action.
- (4) if I am located in a prison participating in the Electronic Filing Pilot Project, I consent to receive orders, notices and judgments by Notice of Electronic Filing.

(Date)

(Printed Name of Applicant)

(Signature & Prison Number of Applicant)

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**TO BE COMPLETED BY THE INSTITUTION OF INCARCERATION OR
DETENTION**

I certify that _____ (prisoner/detainee name and number) has the current sum of \$ _____ on account to his credit at _____ (name of institution). I further certify that during the past six months the applicant's average balance was \$ _____ and that the applicant's average monthly deposits were \$ _____. I have attached a certified copy of the applicant's prison trust fund account showing at least the past six months' transactions.

I further certify that the applicant does does not have a secondary savings account(s), such as a certificate of deposit or savings bond. The secondary account(s) balance, if any, is \$ _____.

(Date)

(Signature of Authorized Officer)

(Printed Name of Authorized Officer)